

### **Remarks/Arguments**

#### **In the Specification:**

Paragraph [0001] has been amended to correct a minor editorial problem (filling in a missing serial number). Paragraph [0026] has been amended in response to the Examiner's claim rejections based on 35 U.S.C. 112, second paragraph. Paragraph [0026] has been amended to clarify the meaning of the phrase "organized by user" in the rejected claims, by consolidating information found in various parts of the patent application (e.g. paragraphs 0008, 0011, 0025, paragraph 0044, with its table, and paragraph 0061, along with FIG. 7). No new matter has been added. The Assignee respectfully submits that the amendment removes any doubt that Claims 6, 11, 17, 23, and 29 are sufficiently definite.

The above-mentioned amendments were discussed with the Examiner in the telephone interview of July 12, 2004, along with questions concerning the prima facie case of anticipation and the prima facie case of obviousness (see Errors in Rejection below).

New application papers with lines double-spaced are submitted with this Amendment and Reply, in response to the Office action's Paragraph 1. There has been no alteration of the original specification. This is a true copy, except for line spacing. The substitute specification includes no new matter.

#### **In the Claims:**

Claims 3, 4, 23, and 25-33 have been amended in response to the Examiner's claim

objections, to correct minor editorial problems. These claim amendments generally clarify an acronym (extensible markup language or XML), and clarify which claim each claim depends upon.

**Errors in Rejection:**

The assignee respectfully asserts that:

1. It was erroneous to reject Claims 6, 11, 17, 23, and 29, based on 35 U.S.C. 112, second paragraph, with or without the amendment that clarifies the meaning. A prima facie case of indefiniteness has not been established.
2. It was erroneous to reject Claims 1, 2, 5, 7, 10, 12, 13, 16, 18, 21, 24, 25, 28, 30, and 33 under 35 U.S.C. 102, as being anticipated by Fitch, US Pat. No. 6,321,092. A prima facie case of anticipation has not been established.
3. It was erroneous to reject Claims 3, 4, 6, 8, 9, 14, 15, 17, 19, 20, 22, 23, 26, 27, 29, 31, and 32 , under 35 U.S.C. 103, over Fitch, US Pat. No. 6,424,840, Fitch, US Pat. No. 6,321,092, and other references. A prima facie case of obviousness has not been established.

**Argument regarding 35 U.S.C. 112, second paragraph and lack of a prima facie case of indefiniteness:**

As stated in MPEP 2173.01: "Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) The content of the particular application disclosure..." The Office action does not provide sufficient reasons as to why the rejected claims would be unclear, when these claims are read in light of the specification, with or without the amendment that clarifies the meaning.

Paragraphs 0008, 0011, 0025, paragraph 0044, with its table, and paragraphs 0060-0061, along with Blocks 730 -760 of FIG. 7, all make clear the meaning of the rejected claims. Consider the meaning of the phrase "organized by user" in the rejected claims, in light of paragraph 0044, with its table. Clearly, "organized by user," means that for each collection (e.g. "Location data for husband"), the elements of the collection pertain to a certain user (e.g. the husband), who is being tracked. Thus a prima facie case of indefiniteness has not been established.

**Argument regarding 35 U.S.C. 102 and lack of a prima facie case of anticipation:**

As stated in MPEP 2131, to anticipate a claim, a reference must teach every element of the claim. The following arguments point out some limitations in the rejected claims which are not described in the reference relied upon (Fitch '092). Thus a prima facie case of anticipation has not been established.

**Limitations in the rejected claims which are not described in the reference relied upon in the rejection.**

Here is an example found in Claim 1: "acquiring location data regarding a user from a plurality of location sources." Here is an example found in Claims 12 and 24: "means for acquiring location data regarding a user from a plurality of location sources."

A. Concerning "a plurality of location sources," consider a definition from the specification of the subject patent application (Paragraph [0026] of the published version): "Location sources" or "Location source" means any electronic source of

location data, including mobile electronic devices such as mobile telephones, personal digital assistants, pagers, Global Positioning System (GPS) devices, servers associated with these mobile electronic devices, and computer-based models, schedules or calendars that give a person's expected location depending on the date and time." Consider another example from the specification of the subject patent application (Paragraph [0028] of the published version): "At the left side of FIG. 1, location information is acquired from location sources: device 101, server 111, device 102, device 103, and device 104."

Nothing like this is found in the reference the Office action relies on. Fitch '092 does not have "a plurality of location sources," but instead has multiple location references used to find a location by one source. Fitch '092 does not teach acquiring location data "from a plurality of location sources," where the location sources are separate devices associated with one person, for example. On the contrary, Fitch teaches away from a solution involving a "plurality of location sources." Fitch '092 teaches away, by describing "location sources" that are location technologies associated with a single wireless phone ("wireless station 102" in FIG.1 of Fitch '092). "Some types of LFEs include LFE equipment *in the handset*. Examples include certain GPS and TDOA systems.... AOA and TDOA systems determine the location of *a wireless station* 102 based on communications between *the wireless station* and the cell site equipment of multiple cell sites.... the location of *the wireless station* 102 can be determined by triangulation or similar geometric/mathematic techniques." Fitch '092 Col 5 (emphasis added). "In TDOA systems, multiple cell sites measure the time of arrival of signals from *a wireless station*." Fitch '092 Col. 7 (emphasis added). All this material in Fitch '092 leads away from the rejected claim's "plurality of location

sources.”

B. Concerning “location data regarding a user,” consider an example from the specification of the subject patent application: “Instead of merely locating a mobile device, the present invention *locates people, i.e. users* who may have more than one mobile device .... Location sources also include computer-based models, schedules or calendars that give *a person's expected location* depending on the date and time.” Paragraph [0011] of the published version (emphasis added). Nothing like this is found in the reference the Office action relies on. Fitch ‘092 does not teach acquiring “location data regarding a user.” Rather, Fitch teaches “the location of *the wireless station* .” Fitch ‘092 Col. 5 (emphasis added). A search of the text of Fitch ‘092 reveals that the reference does not contain the phrase: “regarding a user.”

**Rejected Claims 2, 5, 7, 10, 13, 16, 18, 21, 25, 28, 30, and 33 are not separately argued.**

The points made above, concerning Claim 1, also apply to Claims 2, 5, 7, 10, which depend upon Claim 1. The points made above, concerning Claim 12, also apply to Claims 13, 16, 18, 21, which depend upon Claim 12. The points made above, concerning Claim 24, also apply to Claims 25, 28, 30, and 33, which depend upon Claim 24. Thus a prima facie case of anticipation has not been established.

**3. Argument regarding 35 U.S.C. 103 and lack of a prima facie case of obviousness:**

As stated in MPEP 2143 and 2143.03, a requirement for establishing a prima facie

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case of obviousness is that the reference or references must teach or suggest all the claim limitations. Regarding rejected Claims 3, 4, 6, 8, 9, 14, 15, 17, 19, 20, 22, 23, 26, 27, 29, 31, and 32, the references (Fitch '840, Fitch '092, and others) do not teach or suggest all the claim limitations. The points made above, concerning Claims 1 and 12, and "acquiring location data regarding a user from a plurality of location sources" also apply to Claims 3, 4, 6, 8, 9, 14, 15, 17, 19, 20, 22, 23, 26, 27, 29, 31, and 32. The references do not teach acquiring location data "from a plurality of location sources," where the location sources are separate devices associated with one person, for example. Thus a prima facie case of obviousness has not been established.

Teaching away is the antithesis of suggesting the claimed subject matter. Fitch '092 teaches away from a solution involving "means for acquiring location data regarding a user from a plurality of location sources," by describing: "using the raw data to determine *a wireless station* location ... using these definitions to define *a wireless station* location" Fitch '092 Col. 7 (emphasis added).

Assignee respectfully submits that the rejection of Claims 1-33 should be withdrawn, and requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Attachment: Corrected application papers with lines double-spaced